

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

SKOKOMISH INDIAN TRIBE, a federally  
recognized Indian tribe, in its own capacity, as a  
class representative, and as *parens patriae*, *et*  
*al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, TACOMA  
PUBLIC UTILITIES, a Washington municipal  
corporation, *et al.*,

Defendants.

Case No. C99-5606FDB

ORDER DENYING MOTION FOR  
RELIEF FROM JUDGMENT

Plaintiffs move for relief from judgment pursuant to Fed. R. Civ. P. 60(b), or to alter and amend judgment under Fed. R. Civ. P. 59(e) in order to allow federal common law claims to proceed and, if necessary, to grant leave to amend the complaint, and for recusal of the undersigned judge.

This Court dismissed Plaintiffs' claims on summary judgment, and Plaintiffs appealed. The Ninth Circuit affirmed the dismissal, and the Plaintiffs sought and obtained rehearing *en banc*. The *en banc* panel affirmed the dismissal, and Plaintiffs sought an additional rehearing *en banc*. Plaintiffs' arguments were again rejected. Plaintiffs *certiorari* petition to the United States Supreme Court was denied on January 9, 2006. The Ninth Circuit issued its mandate on January 26, 2006

ORDER - 1

1 [Dkt. # 178] wherein the Court stated:

2           On consideration whereof, it is now here ordered and adjudged by this Court,  
3           that the judgment of the said District Court in this cause be and hereby is AFFIRMED  
4           IN PART AND TRANSFERRED TO THE COURT OF FEDERAL CLAIMS IN  
5           PART.

6           Nothing is left for this Court to do. The Ninth Circuit affirmed this Court, it did not remand for  
7           further proceedings in this Court. Plaintiffs may pursue certain of their claims in the Court of Federal  
8           Claims. For the forgoing reasons and for reasons for fully elaborated in Tacoma's response to  
9           Plaintiffs' motion, Plaintiffs' motion is denied.

10           NOW, THEREFORE, IT IS ORDERED: Plaintiffs' Motion for Relief from Judgment, or to  
11           Alter and Amend Judgment and To Recuse [Dkt. # 179] is DENIED.

12           DATED this 12<sup>th</sup> day of April, 2006.

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14 FRANKLIN D. BURGESS  
15 UNITED STATES DISTRICT JUDGE  
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